

HOUSE SUMMARY OF SENATE AMENDMENTS

House Bill No. 782 by Representative Ellington

DISTRICTS/COMMUNICATIONS: Provides additional service charge on wireless telecommunications services

Synopsis of Senate Amendments

1.

Changes the prepaid wireless 911 service charge from \$0.60 per transaction to 2% of the amount of the per retail transaction.

2.

Increases the amount of the remitted service charges the Department of Revenue can retain from 1% to 2%.

3.

Provides that a seller may retain the entirety of the 2010 first quarter's fees and thereafter 4% of the charges collected from consumers.

Digest of Bill as Finally Passed by Senate

Present law provides that communications districts shall collect 911 emergency service charges from landline and wireless telecommunications services.

Proposed law provides for definitions.

Proposed law provides for a prepaid wireless telecommunications 911 service charge of 2% of the amount of the per retail transaction.

Proposed law provides that the prepaid wireless 911 service charge shall be collected by the seller from the consumer with respect to each retail transaction occurring in this state. The amount of the prepaid wireless 911 service charge shall be either separately stated on an invoice, receipt, or other similar document that is provided to the consumer by the seller, or otherwise disclosed to the consumer.

Proposed law provides that a retail transaction that is effected in person by a consumer at a business location of the seller shall be treated as occurring in this state if that business location is in this state, and any other retail transaction shall be treated as occurring in this state if the retail transaction is treated as occurring in this state for purposes of present law.

Proposed law provides that the prepaid wireless 911 service charge shall be the liability of the consumer and not of the seller or of any provider, except that the seller shall be liable to remit all prepaid wireless 911 service charges that the seller collects from consumers, including all such charges that the seller is deemed to collect where the amount of the charge has not been separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller.

Proposed law provides that the amount of the prepaid wireless 911 service charge that is collected by a seller from a consumer, whether or not such amount is separately stated on an invoice, receipt, or other similar document provided to the consumer by the seller, shall not be included in the base for measuring any tax, fee, surcharge, or other charge that is imposed by this state, any political subdivision of this state, or any intergovernmental agency.

Proposed law provides that the prepaid wireless 911 service charges collected by sellers shall be remitted to the department quarterly by the seller and the return for the quarter shall be filed on or before the twentieth day of the first month of the next succeeding quarter.

Proposed law provides that the department shall establish electronic registration procedures

to enable sellers to file and pay the prepaid wireless 911 service charges electronically in accordance with present law (R.S. 47:1520(A)), which authorizes the secretary of the department to mandate electronic filing when the report is required for dedicated fund distribution.

Proposed law provides that sellers shall be required to file their prepaid wireless 911 service charge reports and to remit the prepaid wireless 911 service charge collection electronically using the electronic format prescribed by the department.

Proposed law provides that a seller shall be permitted to deduct and retain the entirety of the 2010 first quarter's fees and thereafter he can deduct and retain 4% of prepaid wireless 911 service charges that are collected by the seller from consumers.

Proposed law provides that the audit and appeal procedures applicable under present law with respect to the state sales tax shall apply to prepaid wireless 911 service charges and prescription under Art. XII, Sec. 16 of the Const. of La. shall apply.

Proposed law provides that the department shall establish procedures by which a seller of prepaid wireless telecommunications service may document that a sale is not a retail transaction.

Proposed law provides that the department shall pay all remitted prepaid wireless 911 service charges over to eligible communications districts. The department may retain up to 2% of remitted service charges to reimburse its direct costs of administering the collection and remittance of prepaid wireless 911 service charges.

Proposed law provides that each communications district shall receive a distribution within 30 days of the end of each calendar quarter of a portion of the revenues remitted to the department.

Proposed law provides that the amount of the distribution shall be determined by dividing the population of the communications district by the state population, and then multiplying that quotient times the total revenues remitted to the department after deducting the amount authorized in proposed law.

Proposed law provides that no provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of, or failure to provide, 911 or E911 service, or for identifying, or failing to identify, the telephone number, address, location, or name associated with any person or device that is accessing or attempting to access 911 or E911 service.

Proposed law provides that no provider or seller of prepaid wireless telecommunications service shall be liable for damages to any person resulting from or incurred in connection with the provision of any lawful assistance to any investigator or law enforcement officer of the United States, this or any other state, or any political subdivision of this or any other state, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer.

Proposed law provides that the prepaid wireless E911 charge shall be the only E911 funding obligation imposed with respect to prepaid wireless telecommunications service in this state, and no tax, fee, surcharge, or other charge shall be imposed by this state, any political subdivision of this state, or any intergovernmental agency, for E911 funding purposes, upon any provider, seller, or consumer with respect to the sale, purchase, use, or provision of prepaid wireless telecommunications service.

Effective Jan. 1, 2010.

In FY 2009-2010, the department may retain up to \$800,000 of remitted funds to pay actual start-up costs to implement the system for collection and remittance of prepaid wireless 911

service charges.

(Adds R.S. 33:9109.1)